

WO

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

United States of America,)	No. CR 90-0003-PHX-RCB
)	
Plaintiff,)	ORDER
)	
vs.)	
)	
Denard Darnell Neal,)	
)	
Defendant.)	


Defendant Denard Darnell Neal has filed a “LETTER OF INQUIRY IN REGARDS OF PENDING ACTION RULE 60(b)” (Doc. #181) requesting that he be provided with “information pursuant to the Freedom of Information Act.” Attached to Defendant’s Letter of Inquiry is a second letter addressed to the Clerk of Court, United States District Court for the District of Arizona, requesting disclosure of information pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the Privacy Act, 5 U.S.C. § 552a(d). Defendant’s Letter of Inquiry will be denied.

By their express terms, both FOIA and the Privacy Act apply only to information held by a federal government “agency” as defined in the Administrative Procedure Act (APA), 5 U.S.C. § 551(1). Pennyfeather v. Tessler, 431 F.3d 54, 56 n.1 (2d Cir. 2005). The APA provides that “‘agency’ means each authority of the Government of the United States, . . . but does not include — . . . (B) the courts of the United States.” 5 U.S.C. § 551(1). Defendant’s request for information allegedly in the custody of the United States District Court for the

District of Arizona is therefore not authorized by either FOIA or the Privacy Act.
Accordingly,

IT IS ORDERED that Defendant's Letter of Inquiry (Doc. #181) is **denied**.

Dated this 12th day of February, 2007.



Robert C. Broomfield
Senior United States District Judge